IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.27082 of 2005
MEENA DEVI
Versus
STATE OF BIHAR & ORS
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8 15 July 2008 Heard learned counsel for the petitioner and learned counsel for the O. P. no.2.

This application has been filed for quashing the order dated 30.5.05 passed by learned Sessions Judge, Nalanda at Biharsharif in Cr. Rev. no. 77/05 by which he allowed the revision and set aside the order of cognizance dated 9.2.05 passed by learned Additional Chief Judicial Magistrate, Hilsa in Hilsa PS case no. 156/04.

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Shortly stated the case of petitioner/informant is that on 4.7.2004 at about 12 in the night the accused persons entered into her house by crossing the wall and committed the occurrence. Written report was filed before the police on 5.7.2004 on the basis of which the police registered Hilsa PS case no. 156/2004 dated 5.7.2004 u/ss 448, 436, 380 of the Indian Penal Code. The police after investigation submitted final report with the label allegations false. It appears that learned in charge Additional Chief Judicial Magistrate, Hilsa differed from the police report and took cognizance against the accused persons/ O.P. nos 2 to 6 and summoned them. Against the said order of cognizance dated 9.2.05 the opposite parties no. 2 to 6 preferred Cr. Rev. no. 77/05 before the Sessions Judge, Nalanda at Biharsharif who by order dated 30.5.05 allowed the revision and set aside the order of cognizance.

It has been argued on behalf of the petitioner that order of cognizance dated 9.2.05 passed by the Additional Chief Judicial Magistrate, Hilsa is in accordance with law. Learned Magistrate passed the order after carefully examining the record. He argued that learned Sessions Judge has wrongly set aside the order of cognizance. He further argued that in the case diary there is sufficient evidence to put the accused on trial.

Learned counsel for the O. P. nos. 2 to 6 on the other hand supported the order of learned Sessions Judge and submitted that on the basis of material collected in the case diary no prima facie case is made out against the accused persons.

Xerox copy of the case diary has been made available to this court through a supplementary affidavit filed on behalf of the petitioner. It appears that during investigation many witnesses were examined by the police but except the informant no any other witness claimed before the police to have seen the accused committing the occurrence. The independent witnesses examined by the police during investigation informed that on the alleged date of occurrence the accused were not present in the village.

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It is true that at the stage of cognizance the only thing which the Magistrate has to consider whether there is sufficient grounds for proceeding against the accused persons. Sufficient grounds do not mean sufficient grounds for conviction but such evidence as would be sufficient to put the accused upon trial. Learned Sessions Judge by a well reasoned order has allowed the revision. This

court finds nothing wrong in the order of learned Sessions Judge.

In the aforesaid facts and circumstances, no interference is required in this application. It is, accordingly, dismissed.

BKS **(M. Saran,J.)**

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